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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,661	06/24/2002	Gerhard Thurow	10537/199	3538
26646	7590	12/01/2003	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			GRAHAM, MATTHEW C	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 12/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>10/069661</b>	Applicant(s) <b>THUROW ET AL.</b>	Examiner <b>GRAHAM</b>	Art Unit <b>3683</b>
	<b>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</b>			
<b>Period for Reply</b> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.				
- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).				
<b>Status</b> 1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>6/19/2003</u>				
2a) <input checked="" type="checkbox"/> This action is FINAL.      2b) <input type="checkbox"/> This action is non-final.				
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.				
<b>Disposition of Claims</b> 4) <input checked="" type="checkbox"/> Claim(s) <u>17 - 31</u> is/are pending in the application.				
4a) Of the above, claim(s) _____ is/are withdrawn from consideration.				
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.				
6) <input checked="" type="checkbox"/> Claim(s) <u>17 - 31</u> is/are rejected.				
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.				
8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.				
<b>Application Papers</b>				
9) <input type="checkbox"/> The specification is objected to by the Examiner.				
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).				
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.				
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.				
<b>Priority under 35 U.S.C. §§ 119 and 120</b>				
13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received.				
14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.				
15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.				
<b>Attachment(s)</b>				
1) <input type="checkbox"/> Notice of References Cited (PTO-892)		4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____		
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)		
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____		6) <input type="checkbox"/> Other: _____		

Art Unit: 3683

1. Receipt is acknowledged of the response filed on June 19, 2003.
2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 17-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merkle '481 in view of Merkle '154.

See paragraph 6 in paper number 6, mailed 3/3/2003.

5. Claims 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merkle '481, in view of Merkle '154 and GB 2,318,851.

Note the previous discussion in paragraph 6.

The claimed invention differs from Merkle '481, as modified, only in the inclusion of an accumulator connected to the bellows.

UK '851 shows accumulator 12 connected to bellows 2, 3.

It would have been obvious to one of ordinary skill in the art to have attached an accumulator to Merkle '481, as modified in view of the teaching of UK '851 as an accessory feature as taught by UK '851.

Re-claims 25-31, the recited features are readily apparent in the applied references.

6. Applicant's arguments filed 6/19/2003 have been fully considered but they are not persuasive. Applicant argues that Merkle '481 fails to show communication between the gas chamber and hydraulic accumulator. However, the claims recite "configured to communicate". The accumulator of Merkle '481 is configured to communicate mechanical vibrations from the air spring.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication should be directed to Mathew Graham at telephone number (703) 308-1113.

*M.C. 8/25/2003*  
MATTHEW C. GRAHAM  
PRIMARY EXAMINER  
GROUP 310